IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FOURTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 14861 of 2004

Between:

Smt. P. Ankamma W/o. P. Veeraiah
R/o. D.No.7/443, Anjaneya Nagar, Madakalavaripalli G.P., Gopavaram Mandal, Cuddappah District.

..... PETITIONER

AND

1 The District Collector, Cuddappah.
2 The Mandal Revenue Officer, Gopavaram Mandal, Cuddapah District.
3 The District Panchayat Officer, Cuddappah District.
4 The Panchayat Secretary, Village Secretary, Madakalavaripalli Gram Panchayat, Gopavaram Mandal, Cuddapah District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue a writ of Mandamus or any other appropriate writ declaring the impugned order of the 1st respondent in Roc. No. 1618/2003-A2 Dt. 10.8.2004 and also of the 4th Respondent in Roc.No.28/2004 Dt. 16.8.2004 passed in pursuance of the above order of the 1st respondent without affording any opportunity of hearing as illegal, unlawful, void and violative of Art. 14 of the Constitution of India and consequentially direct the Respondents to nullify the same enabling me to run the business.

For the Petitioner: MR.P.B.VIJAY KUMAR, Advocate

For the Respondents 1 and 2: GP FOR REVENUE

For the respondent 3: G.P. PANCHAYAT RAJ.

The Court at the admission stage made the following :

ORAL ORDER:

The petitioner was granted permission on 15-3-2003 for preparing palakowa, which comes under cottage industry, in her house by the fourth respondent on the resolution of Madakalavaripalli Gram Panchayat No.71 dt. 5-2-2003. After collecting license fee, license was also issued to the petitioner. On obtaining such license, the District Industries Department, Kadapa issued acknowledgment dt. 10-4-2003 since the unit is not covered under Schedule No.IV and II of Air (Prevention and Control of Pollution) Rules, 1994. In the meanwhile, the residents of the locality dt. 12-5-2003 filed a complaint before the District Collector requesting him to cancel the resolution passed by the Gram Panchayat, Madakalavaripalli resolving to grant licence to run palakova manufacturing as the same is causing health hazards due to smoke and bad smell released from the factory. The District Panchayat Officer along with the Divisional Panchayat Officer, Rajampet enquired into the matter and accorded permission for running the factory subject to certain conditions. In the meanwhile, the Correspondent of Fatima English Medium school, which is nearby the factory, also filed a representation dt. 15-9-2003 against the health problems faced by the school children. On the complaint made by the Fatima English Medium School and after getting reports, the District Collector through his impugned proceedings dt. 10-8-2004 cancelled the resolution No.71 dt. 5-2-2003 of the Madakalavaripalli Gram Panchayat in exercise of the powers conferred on him under Section 246(1) (c) of A.P. Panchayat Raj Act and directed the petitioner to close the factory in the present location and shift to another place. Consequent to the orders passed by the District Collector, the fourth respondent by his proceedings dt. 16-8-2004 informed the petitioner that licence issued in favour of the

petitioner was cancelled with effect from 17-8-2004. Questioning the order passed by the Collector dt.10-8-2004 and consequential order of the fourth respondent dt. 16-8-2004, the present writ petition has been filed contending that before cancellation of the licence, no notice whatsoever has been issued to the petitioner.

In response to the notice, the third respondent filed counter-affidavit stating that in view of the representations filed by the Correspondent of the Fatima English Medium School and the residents of the Anjaneya Nagar, the District Collector passed the impugned order canceling the resolution passed by the Madakalavaripalli Gram Panchayat and directed the petitioner to close the factory in the present location and shift the same to another place. Even in the licence granted to the petitioner, it is clearly mentioned that Executive Authority can cancel the licence if any complaints arise, without any notice. In view of the orders of the District Collector, the fourth respondent cancelled the licence issued earlier. The District Collector has not cancelled the licence issued to the petitioner, but he cancelled the resolution of the Gram Panchayat to run the factory in the present location and directed the petitioner to shift the same to another place.

The argument of the learned counsel for the petitioner that no notice whatsoever has been issued while canceling the resolution passed by the Madakalavaripalli Gram Panchayat, which is in violation of principles of natural justice, cannot be countenanced since while granting licence the Panchayat Secretary made it clear that if any complaints arise, the Executive Authority can cancel the license at any time without any notice. Moreover, licence of the petitioner has not been cancelled by the District Collector, but he only directed to shift the factory from the present location to another place.

Having regard to the facts and circumstances of the case, on petitioner making an application to shift the factory from the present location to some other place, the Madakalavaripalli Gram Panchayat shall consider the same and pass appropriate orders for shifting the factory.

With the above direction, the writ petition is dismissed.

A.GOPAL REDDY,J

DT.4-10-2004

Kmr

To

1 The District Collector, Cuddappah.
2 The Mandal Revenue Officer, Gopavaram Mandal, Cuddapah District.
3 The District Panchayat Officer, Cuddappah District.
4 The Panchayat Secretary, Village Secretary, Madakalavaripalli Gram Panchayat, Gopavaram Mandal, Cuddapah District.

5. 2CCs to the Govt., Pleader for Revenue, High Court Buildings, Hyderabad (OUT)

6**.** 2 CCs to the Govt., Pleader for Panchayat Raj, High Court Buildings, Hyderabad(OUT)

7. 2CD copies